

REMARKS

Claims 3-12 are pending in the application with claim 10 amended herein.

Claims 3-5 and 10 stand objected to because of alleged misspellings. Reference to Webster's Third New International Dictionary, Unabridged, 2002 reveals that "apnoea" is a correct alternate spelling of "apnea." The word "impedence" in claim 10 is corrected herein to "impedance." Applicant requests withdrawal of the objection in the next Office Action.

Claims 8 and 9 stand objected to as being of improper multiple dependent form. Applicant notes that both claim 8 and claim 9 were revised in the previous Preliminary Amendment to depend from "any one of claims 3-5." Since claims 8 and 9 refer to other claims in the alternative only and do not serve as a basis for any other multiple dependent claim, Applicant asserts the multiple dependent form of claims 8 and 9 is proper. Applicant requests withdrawal of the objection in the next Office Action.

Claim 10 stands rejected under 35 USC 112, second paragraph, as being indefinite. The dependency of claim 10 is amended herein to depend from claim 9, providing antecedent basis for "the sensor." Applicant requests withdrawal of the rejection in the next Office Action.

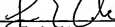
Claims 3-6, 8-10 and 12 are rejected under 35 U.S. C. 102(e) as being anticipated by Libbus et al. (US 2005/0288729). Applicant requests reconsideration.

The present application is a national application of Int'l. App. No. PCT/NZ2005/000050 with a priority claim to New Zealand App. No. 531829, filed March 18, 2004. Applicant previously submitted a certified copy of the New Zealand application to the International Bureau under PCT Rule 17, as required by 37 CFR 1.55. Consequently, Applicant asserts the documents are in order to assert the New Zealand priority date in the U.S., antedating the effective date of Libbus, June 8, 2004. At least for such reason, Libbus does not anticipate the rejected claims.

Applicant herein establishes adequate reasons supporting patentability of claims 3-6, 8-10, and 12. Since claims 7 and 11 depend from allowable, generic claims, Applicant requests allowance of all pending claims in the next Office Action.

Respectfully submitted,

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